UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/613,190	07/10/2000	Riaz Yousuf Hussain	AUS000127US1	8782

35525   7590   07/30/2004

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EXAMINER
CURCIO, JAMES A F

ART UNIT	PAPER NUMBER
2122	

DATE MAILED: 07/30/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

-- *The MAILING DATE of this communication appears on the cover sheet with the correspondence address* --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE _3_ MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on _10 July 2000_.

2a)☐ This action is **FINAL**.   2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) _1-49_ is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) _1-49_ is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.

4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.

5) ☐ Notice of Informal Patent Application (PTO-152)

6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 102

1.   The following is a quotation of the appropriate paragraphs of 35

U.S.C. 102 that form the basis for the rejections under this section made in this

Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2.   Claims 1-49 rejected under 35 U.S.C. 102(b) as being anticipated by

Baldwin, Jr. et al (US005452449A).

3.   As per claim 1, Baldwin, Jr. et al discloses steps for

reading trace data for a module (Fig. 1 – element 20 and associated text;

Fig. 2 – elements 30, 32, and associated text; Fig. 3 – element 31 and

associated text; col. 4:30 to col. 5:63),

comparing the trace data with module symbolic data in a merged symbol

file (Fig. 1 – element 20 and associated text; Fig. 2 – elements 30, 32, and

associated text; Fig. 3 – element 31 and associated text; col. 4:30 to col. 5:63),

and

verifying that the trace data matches the module symbolic data in the

merged symbol file based on one or more predetermined criteria (Fig. 1 –

element 20 and associated text; Fig. 2 – elements 30, 32, and associated text;

Fig. 3 – element 31 and associated text; col. 4:30 to col. 5:63).

4.   As per claim 16, Baldwin, Jr. et al discloses steps for

reading module trace data from a trace file (Fig. 1 – element 20 and

associated text; Fig. 2 – elements 30, 32, and associated text; Fig. 3 – element

31 and associated text; col. 4:30 to col. 5:63),

reading module symbolic data from a symbolic data file (Fig. 1 – element

20 and associated text; Fig. 2 – elements 30, 32, and associated text; Fig. 3 –

element 31 and associated text; col. 4:30 to col. 5:63),

verifying that the module symbolic data corresponds to the module trace

data (Fig. 1 – element 20 and associated text; Fig. 2 – elements 30, 32, and

associated text; Fig. 3 – element 31 and associated text; col. 1:13-17; col. 4:30 to

col. 5:63),

correlating the module symbolic data with the module trace data to

generate correlated data (Fig. 1 – element 20 and associated text; Fig. 2 –

elements 30, 32, and associated text; Fig. 3 – element 31 and associated text;

col. 4:30 to col. 5:63), and

displaying the correlated data (Fig. 1 – element 20 and associated text;

Fig. 2 – elements 30, 32, and associated text; Fig. 3 – element 31 and

associated text; col. 4:30 to col. 5:63).

5.   As per claim 27, Baldwin, Jr. et al discloses a trace data storage device, a

merged symbol file storage device, and a processor coupled to the trace data

storage device and the merged symbolic data storage device . . . (see claim 1

rejection).

6.   As per claim 41, Baldwin, Jr. et al discloses a trace data storage device, a

symbolic data storage device, and a processor coupled to the trace data storage

device and the symbolic data storage device . . . (see claim 16 rejection).

7.   As per claim 42, Baldwin, Jr. et al discloses first instructions for reading

trace data for a module, second instructions for comparing the trace data with

module symbolic data in a merged symbol file, and third instructions for verifying

that the trace data matches the module symbolic data in the merged symbol file

based on one or more predetermined criteria (see claim 1 rejection).

8.   As per claim 49, Baldwin, Jr. et al discloses first instructions for reading

module trace data from a trace file, second instructions for reading module

symbolic data from a symbolic data file, third instructions for verifying that the

module symbolic data corresponds to the module trace data, fourth instructions

for correlating the module symbolic data with the module trace data to generate

correlated data, and fifth instructions for displaying the correlated data (see claim

1 rejection).

9.   As per claim 17, in addition to the claimed common subject matter applied

above in the rejection of claim 16, Baldwin, Jr. et al discloses steps for comparing

the trace data with the module symbolic data, and verifying that the trace data

matches the module symbolic data based on one or more predetermined criteria

(see claim 1 rejection).

10.   As per claims 2, 18, 28, and 43, in addition to the claimed common subject

matter applied above in the rejection of claims 1, 17, 27, and 42, Baldwin, Jr. et

al discloses one or more predetermined criteria that include one or more of a

checksum, a timestamp, a fully qualified path, and a segment size (Fig. 1 –

element 20 and associated text; Fig. 2 – elements 30, 32, 34, 36, 38, 40, 42, 44,

46, 48, and associated text; Fig. 3 – element 31 and associated text; col. 9:19-

23).

11.   As per claims 3-4, 19-20, 29, in addition to the claimed common subject

matter applied above in the rejection of claims 1, 16, and 27, Baldwin, Jr. et al

discloses that the trace data is read from a trace buffer and/or from a trace file

written to a storage device and that the trace data storage device is a trace buffer

(Fig. 1 – element 20 and associated text; Fig. 2 – elements 30, 32, 34, 36, 38,

40, 42, 44, 46, 48, and associated text; Fig. 3 – element 31 and associated text;

col. 1:13-17).

12.   As per claims 5, 6, 30, and 31, in addition to the claimed common subject

matter applied above in the rejection of claims 1 and 27, Baldwin, Jr. et al

discloses that a processor reads the trace data, compares the trace data with

module symbolic data, and verifies that the trace data matches the module

symbolic data dynamically as trace data is written to a trace buffer or trace data

storage device and/or performed at a remote time from when the trace data is

written to a trace file or trace data storage device (Fig. 1 – element 20 and

associated text; Fig. 2 – elements 30, 32, 34, 36, 38, 40, 42, 44, 46, 48, and

associated text; Fig. 3 – element 31 and associated text; col. 1:13-17; col. 4:30 to

col. 5:63; col. 9:19-23).

13.   As per claims 7, 8, 9, 32, 33, 34, 44, 45, and 46, in addition to the claimed

common subject matter applied above in the rejection of claims 1, 27, and 42,

Baldwin, Jr. et al discloses

        a processor and/or second instructions that compare the trace data with

module symbolic data in a merged symbol file and further compare a fully a

checksum and timestamp in the trace data with checksum and timestamp in the

module symbolic data in the merged symbol file (Fig. 1 – element 20 and

associated text; Fig. 2 – elements 30, 32, 34, 36, 38, 40, 42, 44, 46, 48, and

associated text; Fig. 3 – element 31 and associated text; col. 1:13-17; col. 4:30 to

col. 5:63; col. 9:19-23);

        a fully qualified path in the trace data with a fully qualified path in the

module symbolic data, if the checksum and timestamp in the trace data does not

match the checksum and timestamp in the module symbolic data or the

checksum and timestamp in the trace data is not available (Fig. 1 – element 20

and associated text; Fig. 2 – elements 30, 32, 34, 36, 38, 40, 42, 44, 46, 48, and

associated text; Fig. 3 – element 31 and associated text; col. 1:13-17; col. 4:30 to

col. 5:63; col. 9:19-23);

and the trace data with module symbolic data in a merged symbol file by

further comparing a segment length in the trace data with a segment length in the

module symbolic data, if the fully qualified path in the trace data does not match

the fully qualified path in the module symbolic data (Fig. 1 – element 20 and

associated text; Fig. 2 – elements 30, 32, 34, 36, 38, 40, 42, 44, 46, 48, and

associated text; Fig. 3 – element 31 and associated text; col. 1:13-17; col. 4:30 to

col. 5:63; col. 9:19-23).

14.   As per claims 10, 11, 21, 22, 35, and 36, in addition to the claimed

common subject matter applied above in the rejection of claims 1, 17, and 27,

Baldwin, Jr. et al discloses one or more predetermined criteria—checksum and

timestamp, a fully qualified path, and a segment size, wherein they have an

associated priorities, the checksum and timestamp having the highest priority

and the segment size having the lowest priority (Fig. 1 – element 20 and

associated text; Fig. 2 – elements 30, 32, 34, 36, 38, 40, 42, 44, 46, 48, and

associated text; Fig. 3 – element 31 and associated text; col. 1:13-17; col. 4:30 to

col. 5:63; col. 9:19-23).

15.   As per claims 12, 13, 23, 24, 37, 38, 47, and 48, in addition to the claimed

common subject matter applied above in the rejection of claims 1, 16, 27, and 42,

Baldwin, Jr. et al discloses

a merged symbol file that includes a plurality of module entries (Fig. 1 –

element 20 and associated text; Fig. 2 – elements 30, 32, 34, 36, 38, 40, 42, 44,

46, 48, and associated text; Fig. 3 – element 31 and associated text; col. 1:13-17; col. 4:30 to col. 5:63; col. 9:19-23),

second instructions for comparing the trace data with module symbolic data in a merged symbol file that include instructions for identifying a module entry that is a best match with the trace data (Fig. 1 – element 20 and associated text; Fig. 2 – elements 30, 32, 34, 36, 38, 40, 42, 44, 46, 48, and associated text; Fig. 3 – element 31 and associated text; col. 1:13-17; col. 4:30 to col. 5:63; col. 9:19-23),

wherein these instructions include further instructions for comparing the trace data to each of the plurality of module entries and identifying one of the plurality of module entries as a best match based on which of the one or more criteria is used to verify the module entry (Fig. 1 – element 20 and associated text; Fig. 2 – elements 30, 32, 34, 36, 38, 40, 42, 44, 46, 48, and associated text; Fig. 3 – element 31 and associated text; col. 1:13-17; col. 4:30 to col. 5:63; col. 9:19-23).

16.   As per claims 14, 15, 25, 26, 39, and 40, in addition to the claimed common subject matter applied above in the rejection of claims 1, 16, and 27, Baldwin, Jr. et al discloses trace data that includes redundant information identifying a module for each segment of the module, redundant information that includes at least one of module checksum, module timestamp, and module fully qualified path (Fig. 1 – element 20 and associated text; Fig. 2 – elements 30, 32,

34, 36, 38, 40, 42, 44, 46, 48, and associated text; Fig. 3 – element 31 and

associated text; col. 1:13-17; col. 4:30 to col. 5:63; col. 9:19-23).

Double Patenting

17.   The nonstatutory double patenting rejection is based on a judicially
created doctrine grounded in public policy (a policy reflected in the statute) so as
to prevent the unjustified or improper timewise extension of the "right to exclude"
granted by a patent and to prevent possible harassment by multiple assignees.
See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re
Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686
F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164
USPQ 619 (CCPA 1970);and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644
(CCPA 1969).
        A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may
be used to overcome an actual or provisional rejection based on a nonstatutory
double patenting ground provided the conflicting application or patent is shown to
be commonly owned with this application. See 37 CFR 1.130(b).
        Effective January 1, 1994, a registered attorney or agent of record may
sign a terminal disclaimer. A terminal disclaimer signed by the assignee must
fully comply with 37 CFR 3.73(b).

18.   Claims 1-49 are rejected under the judicially created doctrine of double

patenting over claims 1-26 of U. S. Patent No. US006658416B1 since the claims,

if allowed, would improperly extend the "right to exclude" already granted in the

patent.

        The subject matter claimed in the instant application is fully disclosed in

the patent and is covered by the patent since the patent and the application are

claiming common subject matter.

19.   As per the instant application's claim 1, US006658416B1's claims include

steps for reading trace data for a module, comparing the trace data with module

symbolic data in a merged symbol file, and verifying that the trace data matches

the module symbolic data in the merged symbol file based on one or more

predetermined criteria (US006658416B1 - claims 5 and 7).

20.   As per the instant application's claim 16, US006658416B1's claims

include steps for reading module trace data from a trace file, reading module

symbolic data from a symbolic data file, verifying that the module symbolic data

corresponds to the module trace data, correlating the module symbolic data with

the module trace data to generate correlated data, and displaying the correlated

data (US006658416B1 - claims 2 and 5).

21.   As per the instant application's claim 27, US006658416B1's claims

include a trace data storage device, a merged symbol file storage device, and a

processor coupled to the trace data storage device and the merged symbolic

data storage device . . . (US006658416B1 - claims 14 and 16).

22.   As per the instant application's claim 41, US006658416B1's claims

include a trace data storage device, a symbolic data storage device, and a

processor coupled to the trace data storage device and the symbolic data

storage device . . . (US006658416B1 - claim 10).

23.   As per the instant application's claim 42, US006658416B1's claims

include first instructions for reading trace data for a module, second instructions

for comparing the trace data with module symbolic data in a merged symbol file,

and third instructions for verifying that the trace data matches the module

symbolic data in the merged symbol file based on one or more predetermined

criteria (US006658416B1 - claims 23 and 25).

24.   As per the instant application's claim 49, US006658416B1's claims

include first instructions for reading module trace data from a trace file, second

instructions for reading module symbolic data from a symbolic data file, third

instructions for verifying that the module symbolic data corresponds to the

module trace data, fourth instructions for correlating the module symbolic data

with the module trace data to generate correlated data, and fifth instructions for

displaying the correlated data (US006658416B1 - claims 20 and 23).

25.   As per claim 17, in addition to the claimed common subject matter applied

above in the rejection of claim 16, US006658416B1's claims include steps for

comparing the trace data with the module symbolic data, and verifying that the

trace data matches the module symbolic data based on one or more

predetermined criteria (US006658416B1 - claims 5 and 7).

26.   As per claims 2, 18, 28, and 43, in addition to the claimed common subject

matter applied above in the rejection of claims 1, 17, 27, and 42,

US006658416B1's claims include one or more predetermined criteria that include

one or more of a checksum, a timestamp, a fully qualified path, and a segment

size (US006658416B1 - claims 8, 17, and 26).

27.   As per claims 3-4, 19-20, 29, in addition to the claimed common subject

matter applied above in the rejection of claims 1, 16, and 27, US006658416B1's

claims include that the trace data is read from a trace buffer and/or from a trace

file written to a storage device and that the trace data storage device is a trace

buffer (US006658416B1 - claims 2, 3, 11, 12, 20, and 21).

28.   As per claims 5, 6, 30, and 31, in addition to the claimed common subject

matter applied above in the rejection of claims 1 and 27, US006658416B1's

claims include that a processor reads the trace data, compares the trace data

with module symbolic data, and verifies that the trace data matches the module

symbolic data dynamically as trace data is written to a trace buffer or trace data

storage device and/or performed at a remote time from when the trace data is

written to a trace file or trace data storage device (US006658416B1 - claims 2, 3,

5, 7, 11, 12, 14, 16).

29.   As per claims 7, 8, 9, 32, 33, 34, 44, 45, and 46, in addition to the claimed

common subject matter applied above in the rejection of claims 1, 27, and 42,

US006658416B1's claims include a processor and/or second instructions that

compare the trace data with module symbolic data in a merged symbol file and

further compare a fully a checksum and timestamp in the trace data with

checksum and timestamp in the module symbolic data in the merged symbol file;

a fully qualified path in the trace data with a fully qualified path in the module

symbolic data, if the checksum and timestamp in the trace data does not match

the checksum and timestamp in the module symbolic data or the checksum and

timestamp in the trace data is not available; and the trace data with module

symbolic data in a merged symbol file by further comparing a segment length in

the trace data with a segment length in the module symbolic data, if the fully

qualified path in the trace data does not match the fully qualified path in the

module symbolic data (US006658416B1 - claims 8, 17, 26).

30.   As per claims 10, 11, 21, 22, 35, and 36, in addition to the claimed

common subject matter applied above in the rejection of claims 1, 17, and 27,

US006658416B1's claims include one or more predetermined criteria—

checksum and timestamp, a fully qualified path, and a segment size, wherein

they have an associated priorities, the checksum and timestamp having the

highest priority and the segment size having the lowest priority (US006658416B1

- claims 8, 17, 26).

31.   As per claims 12, 13, 23, 24, 37, 38, 47, and 48, in addition to the claimed

common subject matter applied above in the rejection of claims 1, 16, 27, and 42,

US006658416B1's claims include a merged symbol file that includes a plurality of

module entries, second instructions for comparing the trace data with module

symbolic data in a merged symbol file that include instructions for identifying a

module entry that is a best match with the trace data, wherein these instructions include further instructions for comparing the trace data to each of the plurality of module entries and identifying one of the plurality of module entries as a best match based on which of the one or more criteria is used to verify the module entry (US006658416B1 - claims 5, 7, 14, 16, 23, and 25).

32.   As per claims 14, 15, 25, 26, 39, and 40, in addition to the claimed common subject matter applied above in the rejection of claims 1, 16, and 27, US006658416B1's claims include trace data that includes redundant information identifying a module for each segment of the module, redundant information that includes at least one of module checksum, module timestamp, and module fully qualified path (US006658416B1 - claims 8, 17, 26).

Furthermore, there is no apparent reason why applicant was prevented from presenting claims corresponding to those of the instant application during prosecution of the application, which matured into a patent. See *In re Schneller*, 397 F.2d 350, 158 USPQ 210 (CCPA 1968). See also MPEP § 804.

Conclusion

33.   The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

34.   Any inquiry concerning this communication or earlier communications from the examiner should be directed to James Curcio whose telephone number is

703-305-8887. The examiner can normally be reached on Tuesday to Friday

from 7 am to 5 pm.

If attempts to reach the examiner by telephone are unsuccessful, the

examiner's supervisor, Tuan Dam, can be reached on Tuesday to Friday from

7:30 am to 4:30 pm. The examiner's supervisor can also be reached on

alternate Mondays. The fax phone number for the organization where this

application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from

the Patent Application Information Retrieval (PAIR) system. Status information

for published applications may be obtained from either Private PAIR or Public

PAIR. Status information for unpublished applications is available through

Private PAIR only. For more information about the PAIR system, see http://pair-

direct.uspto.gov. Should you have questions on access to the Private PAIR

system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-

free).

TUAN DAM
SUPERVISORY PATENT EXAMINER

July 22, 2004
JC
AU 2122